

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NATIONAL VIATICAL, INC. and JAMES)
TORCHIA,)

Plaintiffs,)

v.)

UNIVERSAL SETTLEMENTS)
INTERNATIONAL, INC.,)

Defendant.)

CASE NO. 1:11-cv-1358-RWS

**MOTION TO STRIKE DECLARATIONS OF RANDY BENNETT,
CHRISTOPHER HALAS, AND TED BUCZEK AND PORTIONS OF
UNIVERSAL SETTLEMENTS INTERNATIONAL, INC.'S REPLY BRIEF
IN SUPPORT OF MOTION TO TRANSFER**

National Viatical, Inc. ("NVI") and James Torchia move the court to strike new evidence and arguments first raised by Universal Settlements International, Inc. ("USI") in a reply brief. Submitting new evidence and raising new arguments after the non-moving party has responded is prohibited by Rule 6(c)(2) of the Federal Rules of Civil Procedure and Local Rule 7.1(a)(1). It is also prohibited by common sense and fundamental fairness. NVI and Torchia responded to what they believed was USI's entire argument. USI's bait-and-switch with untimely arguments and evidence rob NVI and Torchia of an adequate opportunity to

respond. Rather than considering the improper arguments and evidence, the Court should strike them.

WHEREFORE, NVI and Torchia request the Court grant their motion and strike the declarations of Randy Bennett, Christopher Halas, and Ted Buczek, as well as new arguments and evidence addressed in USI's reply brief.

Respectfully submitted, this 29th day of June, 2011.

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Certification of Font and Point Selections Approved by the Court

I hereby certify pursuant to LR 7.1D that this brief has been prepared with one of the font and point selections approved by the Court in LR 5.1B (Times New Roman 14 pt.).

/s/ Jason W. Graham

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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the other parties in the foregoing matter with a copy of the Motion to Strike via the Court's CM/ECF notification system to:

Simon R. Malko, Esq.
Morris, Manning & Martin, LLP
Attorney for Universal Settlements International,
Inc.

Respectfully submitted, this 29th day of June, 2011.

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